

Dec. D.E. 151-1, PageID# 1091-92; Restoration Memo, D.E. 151-5, PageID# 1393-94; Restoration FAQ, D.E. 151-6, PageID #1395; Def.’s Statement of Facts, D.E. 152, PageID# 2267-68; Election Comm’n Memo, D.E. 157-3, PageID# 2721-22; State Officials Memo, D.E. 157-4, PageID# 2723-24; Federal Officials Memo, D.E. 157-5, PageID# 2726-27; Def.’s Resp. in Opp., D.E. 161, PageID# 2763-64; Def.’s Resp. in Opp., D.E. 175, PageID# 2830-31; Def. Resp. to Discovery Mot., D.E. 236, PageID# 3779-80; Def.’s Reply, D.E. 287, PageID# 6455-56.) Consistent with these filings, Defendants’ Brief expressly addresses how the restoration of the full rights of citizenship under Tennessee law relates to the jurisdictional concept of standing, a part of the class certification analysis. (Def.’s Br., Ex. 1, pg. 1-5.) To be sure, Defendants did not expressly use the term “July 2023 policy changes” in their Brief, but to ensure that the issue is clear, the July 2023 policy changes, *Falls*’ holding, and the statutes on restoration of full rights of citizenship are intertwined. As such, Section I of Defendants’ Brief directly relates to the July 2023 policy changes and class certification. (*Id.*)

Moreover, Defendants’ Brief expressly addresses how the cases of the Individual Plaintiffs, and the cases of members of the proposed class, must be determined individually when considering their eligibility to request a certificate of restoration. An infamous felon’s eligibility to request a certificate of restoration is directly affected by the July 2023 policy changes that implemented the holding of *Falls*, as evidenced by the explanation in Defendants’ Brief that there are individual reasons why an infamous felon may not be eligible to apply for a certificate of restoration. Those reasons can include “many people” not having “their citizenship rights restored” or others “only partially restor[ing] their citizenship rights.” (Def.’s Br., Ex. 1, pg. 9-10.) Thus, Section II of Defendants’ Brief directly relates to the July 2023 policy changes and class certification. (*Id.*)

In all, Defendant's Brief addresses how the July 2023 policy changes affect the class certification analysis. (*Id.* at 1-10). Thus, it should not be characterized as having “no possible relation to the controversy” and stricken from the record. *See Byrd v. Wine*, No. 3:16-cv-02738, 2017 WL 67993, at *2 (M.D. Tenn. Jan. 6, 2017) (quoting *A Metal Source, LLC v. All Metal Sales, Inc.*, No. 1:14-cv-01020, 2016 WL 245981, at *3 (N.D. Ohio Jan. 21, 2016)) (describing the court's inherent power to strike non-pleading documents only when the material at issue has “no possible relation to the controversy”). Therefore, this Court should reinstate Defendant's Brief to the docket.

In the alternative, if the Court is of the opinion that the record would benefit from direct references and citations to the Defendants' policy changes, Defendants have attached to their motion a proposed brief with those additions underlined as Exhibit 2, (Def.'s Proposed Br., Ex. 2)¹, and Defendants' motion requests leave to file this proposed brief with the additions.

¹ To stay within the Court's limit of 10 pages, Defendants have deleted Subsection II.C. from the proposed brief to compensate for the additional references and citations.

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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the above document has been forwarded electronically. Notice of this filing will be sent by the Court's electronic filing system to the parties named below. Parties may access this filing through the Court's electronic filing system.

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